

TO: Old Orchard Beach Planning Board
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: January Planning Board Meeting Summary
DATE: 12 January 2012

Below is a brief summary of pertinent issues related to the January Planning Board Agenda items:

ITEM 1 – Baggs

- Proposal to create a Private way to access one lot. Last month the proposal was determined complete, conditioned upon receiving a completed Private Way application. A site walk and public hearing is scheduled for our January meetings.
- The proposal secured variance approval during November 2011. The variance was necessary because the proposal could not meet the ROW standard.
- I have three primary comments at this time:
 1. Has the applicant successfully represented right, title or interest and that there is no private right issues.
 2. The Public Works Director will need to review stormwater drainage.
 3. The applicant has requested several waivers. The PB should consider and rule on these waivers before any final action is taken on the proposal.
- The PB should identify any outstanding issues and can schedule final review for February.

ITEM 2 – BBI

- BBI is proposing to amend a 2001 approved site plan by increasing the property size from 4 to 8 acres, construction of a driveway with a utility access easement and installation of fencing for improved security.
- The proposal is quite complete and those areas that are changing from the 2001 approval have been updated, including amended stormwater management and site plans.
- This is a pretty straight forward proposal. The primary possible issue is the construction of the access easement. We just need to be sure all legal agreements are in place and the proposed access, including construction, is acceptable to all those who use it. This can be applied as a condition of approval if legal agreements are not in entirely secured at this time.
- I believe if there are no issues arising from public hearing comment or from PB members, this proposal can be conditionally approved. Condition: Before commencement of construction of the access as shown on the approved plans and written documentation, all legal agreements between applicable entities shall be complete. Applicable legal documents associated with final establishment of the easement shall be submitted to the OOB Planning Department.

ITEM 3 – Fire Department Antennae Addition

- The Fire Department is proposing a 20' addition to an existing communications antennae attached to a building.

- At our last meeting the application was determined complete and a public hearing is scheduled for this month.
- There have been no outstanding issues or concerns. The primary issue for the board to consider is waiver of Wireless Telecom Facility standards. The PB should vote on the requested waivers before and final decision on the application as a whole is made.
- If there are no issues brought forward during the public hearing and the PB is comfortable with granting the waivers, I believe the proposal can be approved.

ITEM 4 – Chamberlin

- At the last meeting, the PB determined additional information was needed in order for the application to move to the final steps/review.
- The additional information requested:
 1. Submission of right, title interest
 2. A revised plan which includes stormwater management systems, underground utilities and information sufficient to establish the exact location, direction, width, and direction of the private way
 3. Letter from Biddeford & Saco Water Department authorizing the installation of public water.
 4. The following should be on the primary plan:
 - a. Labeled as “Plan of a Private Way”
 - b. An approval block for PB signatures, the date of approval and the words “Private Way, approved by the town Planning Board”
 - c. A note reading “The Town of Old Orchard beach shall not be responsible for maintenance, repair, plowing, or similar services for the private way shown on this plan”
 - d. A note reading “All public rights shall be maintained and granting the approval of the private way shown on this plan does not relinquish public rights. Any improvements within the right-of-way can be removed and/or upgraded by the town at a future date.
- The information above has not been submitted; therefore, the PB should table the application until this info is received.

ITEM 5 – Smith

- At the last meeting, the PB waived the subdivision road requirements, determined the 50’ ROW width was not required (because the ROW existed before September 1989), decided road frontage is not required because the lot in questions was established before the adoption of the ordinance frontage requirements, and a public hearing is not required because the access already exists.
- The PB requested the following be submitted for the January meeting: 1. A road maintenance agreement; 2. A completed Private Way application; 3. Public Safety opinion.
- A road maintenance agreement and Private Way application has been submitted. I contacted public safety and public works. I received contact back from the Public Works Director and he has no concerns as long as there are no new cuts in Smith Wheel Road.
- With the submission of the maintenance agreement and Private way application, I believe the PB can make a final ruling on the proposal at the 12 January meeting.

ITEM 6 – Pyle

- This is a new Conditional Use application. This proposal includes a project to alter the interior of an existing 3 unit apartment building to add a single motel unit (Lodging).
- This proposal is very similar to a proposal we reviewed last summer. As you may recall, Mr. King Weinstein was conditionally approved to add a motel unit at his property located on 30 Washington Avenue.
- The NC3 Zone allows Lodging as a conditional use with NO DENSITY standards (this was established in a letter by the town attorney for Mr. Weinstein’s proposal-see attached memorandum).
- One of the primary issues associated with this proposal (much like Mr. Weinstein’s) is parking. This property currently has no off-street parking available. There are parking requirements: 1 space per room plus 50%. The lot currently is non-conforming with regard to the number of spaces due to the 3 existing units and no off-street parking available. Parking waivers can be requested by the applicant. The following zoning section is applicable:
Sec. 78-1568. Parking Waivers.
(a) The planning board may grant waivers from the standards of this division only in cases where the applicant can demonstrate that:
(1) With respect to the number of parking spaces, the actual parking demand for the applicant's proposal is less than required in section 78-1566 and a reduction in the number of parking spaces will not create unsafe conditions for vehicles or pedestrians; or
(2) With respect to standards other than the required number of parking spaces, the physical constraints of the site make compliance with the design standards of this division impractical or technically unfeasible, and modification of those standards will not create unsafe conditions for vehicles or pedestrians.
- If this proposal is to move forward, the applicant must make a formal written request for waiver of the parking standards. This request should include why the proposal cannot offer parking, with reference to the Parking Waiver standards cited above.
- The PB applied specific conditions to Mr. Weinstein’s proposal to ensure it remains a lodging unit (e.g., minimum 30 day stay; owner/operator shall register and pay applicable Maine lodging sales tax as applicable; A hotel/lodging ledger of occupants shall be maintained). The PB should considering doing the same for this proposal.
- Tonight’s Planning Board action will be to determine if the application is complete and if so, scheduling a public hearing date and site walk. Also, the PB may choose to request any additional items from the applicant (e.g. written parking waiver request).

ITEM 7 – Stevenson

- This is a new Conditional Use application. This proposal is to convert an existing vacant building (formerly used as a plumbing shop) into a single family dwelling. The reason this is before the PB is because it is a 30% expansion within the shoreland zone. As a result of the 2011 shoreland zoning ordinance changes,

proposal that involve 30% expansions now require PB Conditional Use review. Also, this requires PB approval because the project involves removal of more than 50% of the structures market value and for the conversion to a single family home.

- There has been a fair amount of work and correspondence between the applicant's daughter, former Code Officer Mike Nugent and the Department of Environmental Protection. I recommend you carefully review this correspondence.
- I recommend the applicant work with the code officer on the understanding the regulations and complying with the Floodplain Management Ordinance. The code officer can offer comments to the PB concerning his findings.
- A few items to be aware of:
 1. The removal of more than 50% of the structures market value requires the PB to determine that the proposed reconstruction complies with the shoreland setback to the greatest practical extent. A site walk will be helpful for this).
 2. The structure cannot encroach on the wetland further then what the existing structures setback is; although, rip rap can typically be placed within this area as long that it receives applicable DEP approvals.
 3. The existing foundation, 1st and 2nd floors all count in calculating the volume and square footage for the 30% expansion (these calculations are included in the applicants packet).
 4. Trees that are removed as part of this project will need to be replaced with trees that are native to the area.
 5. The proposal will need to comply with the Floodplain Management Ordinance. I believe the applicant should discuss with the code officer how this needs to be done before the PB provides a final ruling.
 6. Public water and sewer connections exists, we should just receive assurance they are in good working order.
- I believe the application is well put together and the PB can determine it is complete; although, the applicant should speak with the code officer regarding Floodplain Ordinance requirements and compliance. I believe floodplain matters should be resolved or on there way to resolution before a formal decision is made by the PB. I recommend a public hearing and site walk be scheduled in February.